

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARGARITA HERNANDEZ RIVERA,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. 1:21-cv-00761-SAB

ORDER DISCHARGING ORDER TO SHOW
CAUSE AND GRANTING EXTENSION OF
TIME TO FILE OPENING BRIEF

(ECF Nos. 19, 21)

On May 12, 2021, Plaintiff Margarita Hernandez Rivera filed this action seeking judicial review of a final decision of the Commissioner of Social Security (“Commissioner”) denying an application for disability benefits pursuant to the Social Security Act. (ECF No. 1.) On March 4, 2022, the administrative transcript was lodged. (ECF No. 12.) On March 7, 2022, the Court issued an order advising the parties of the lifting of the stay of action and provided an amended scheduling order. (ECF No. 13.) Thereafter, the Court granted two joint stipulations submitted by the parties to extend the time for Plaintiff to file the opening brief. (ECF Nos. 15, 18.) Based on these extensions, Plaintiff’s opening brief was due July 20, 2022. (ECF No. 18.) Plaintiff did not timely file an opening brief. On July 21, 2022, the Court issued an order to show cause in writing why this action should not be dismissed for failure to prosecute. (ECF No. 19.)

Later that same day, Plaintiff filed a response to the order to show cause and the opening

1 brief. (ECF Nos. 20, 21.) Counsel for Plaintiff proffers that he intended for the brief to be timely
2 filed and did timely attempt to lodge the brief, but that due to a technical error on counsel's part,
3 the brief was not properly lodged and therefore did not appear on the docket. Counsel proffers he
4 immediately corrected the error upon its discovery, and the opening brief was filed concurrently
5 with his response to the order to show cause. Counsel requests the error be construed as
6 excusable neglect and that the deadline to file the opening brief be extended to July 21, 2022.
7 Having reviewed the response, the Court shall discharge the order to show cause and grant
8 Plaintiff's requested relief.

9 Accordingly, IT IS HEREBY ORDERED that the Court's July 21, 2022 order to show
10 cause (ECF No. 19) is DISCHARGED. Plaintiff's nunc pro tunc request for an extension to file
11 the opening brief by July 21, 2022, is GRANTED. The remaining filing deadlines set forth in the
12 Court's March 7, 2022 amended scheduling order are continued accordingly.

13
14 IT IS SO ORDERED.

15 Dated: July 22, 2022


UNITED STATES MAGISTRATE JUDGE